

DAN NEUMAN,	:	Order Docketing and Dismissing
Appellant	:	Appeal and Referring Matter
	:	to the Director, Office of
v.	:	Hearings and Appeals
	:	
ASSISTANT SECRETARY - INDIAN	:	Docket No. IBIA 95-52-A
AFFAIRS,	:	
Appellee	:	December 6, 1994

Appellant Dan Neuman seeks review of the failure of the Assistant Secretary - Indian Affairs (Assistant Secretary) to respond to a November 10, 1994, letter concerning a March 15, 1994, demand letter seeking to collect \$127.29, in principal and interest, for an alleged travel advance overpayment to appellant by the Bureau of Indian Affairs (BIA). Billing Document ID BZ K03272001FN. The demand letter notified appellant that he might "request an administrative review of the existence or amount of [BIA's] claim * * * within fifteen (15) days of [his] receipt of this letter." The letter did not inform appellant of the proper official with whom to file the request for administrative review.

The materials attached to appellant's notice of appeal indicate that he disputes receiving a travel advance, and has sought review of the matter by various BIA officials in the Billings Area Office; the BIA Accounts Receivable and Collection Section, Albuquerque, New Mexico; and the Office of the Assistant Secretary. On October 26, 1994, appellant sought to force action by the Albuquerque office by citing 25 CFR 2.8, which provides procedures for seeking review of the inaction of a BIA official. On November 10, 1994, he similarly sought to force a decision by the Assistant Secretary.

It appears most likely that this matter arises under 5 U.S.C. § 5514 (1988), concerning debt collection. Procedures for implementing 5 U.S.C. § 5514 appear in 370 Departmental Manual (DM), Chapter 550, Subchapter 10. 370 DM 550,10.8,A provides that

[a] hearing may be requested by filing a written petition within 15 calendar days of the notification, addressed to the Director, OHA, (Address: Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203) stating the grounds upon which the employee disputes the bureau's proposed collection of the alleged debt.

It is also possible that the matter arises under 5 U.S.C. § 5705 (1988), dealing with travel advances.

In either case, this Board lacks jurisdiction to review the matter because it does not arise under 25 CFR Chapter I.

BIA's failure to provide appellant with specific appeal information appears to have resulted in his inability to locate the appropriate office to consider his objections to the demand letter. This problem could have easily been avoided if the demand letter had contained specific information notifying appellant of the proper official with whom to file a request for administrative review. By way of example, 25 CFR 2.7(c) requires such notification for BIA decisions issued under 25 CFR Chapter I.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the inaction of the Assistant Secretary - Indian Affairs is docketed and dismissed for lack of jurisdiction. However, the matter is referred to the Director, Office of Hearings and Appeals, for appropriate consideration.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge